

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

JOHNNY O'BRYANT, 289746

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:07-cv-00477-LG-RHW

HARRISON COUNTY ADULT DETENTION CENTER,  
SHERIFF GEORGE H. PAYNE, JR., WARDEN DONALD  
A. CABANA AND EX-DEPUTY KARL STOLZE, 1045  
LARKIN SMITH DRIVE, GULFPORT, MS 39503

DEFENDANTS

**ANSWER AND DEFENSES TO THE AMENDED COMPLAINT  
BY THE HARRISON COUNTY BOARD OF SUPERVISORS**

COMES NOW the Defendant, The Harrison County Board of Supervisors (hereinafter "Board"), by and through the Board's attorney of record, Karen J. Young, and file its Answer and Defenses to the Amended Complaint filed as follows, to-wit:

**FIRST AFFIRMATIVE DEFENSE**

The Amended Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiff failed to give notice of his claim pursuant to § 11-46-11 of the 1972 Miss. Code Ann. (Supp. 1996).

**THIRD AFFIRMATIVE DEFENSE**

Defendant affirmatively avers and pleads the doctrine of sovereign immunity against the claim of Plaintiff.

**FOURTH AFFIRMATIVE DEFENSE**

The Defendant is exempt as a governmental entity pursuant to

§ 11-46-9 of the 1972 Miss. Code Ann., specifically Sections 1 (b), (c), (d), (e), (f), (g), (m), (r) and (v).

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's Amended Complaint is subject to the exclusive remedy provision of § 11-46-7 of the 1972 Miss. Code Ann. (Supp. 1996) and is not entitled to a trial by jury.

**SIXTH AFFIRMATIVE DEFENSE**

Defendant states the claim of Plaintiff is barred by collateral estoppel.

**SEVENTH AFFIRMATIVE DEFENSE**

Defendant pleads contributory/comparative negligence on the part of the Plaintiff.

**EIGHTH AFFIRMATIVE DEFENSE**

The subject of the Plaintiff's Amended Complaint does not involve any implementation or execution of any policy, statement, ordinance or regulation or decision officially adopted and/or promulgated by this Defendant. The Defendant neither promulgated nor condoned any policy, custom or usage, or the implementation thereof, which allegedly resulted in any constitutional violations or deprivations of Plaintiff.

**NINTH AFFIRMATIVE DEFENSE**

Defendant states Plaintiff cannot recover punitive damages against this Defendant because it would violate Section 28 of the Mississippi Constitution, provisions of the Constitution of the United States of America, and § 11-46-15 of 1972 Miss. Code Ann.

(Supp. 1996), to which Plaintiff's damages are limited.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiff failed to follow the proper administrative procedures at the Harrison County Adult Detention Center prior to filing his lawsuit.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiff suffers from a pre-existing physical condition.

**TWELFTH AFFIRMATIVE DEFENSE**

AND NOW, without waiving any other defenses to which it is entitled, the Defendant answers the Amended Complaint, paragraph by paragraph, as follows:

**PARTIES**

1. Admitted.
- 2 Harrison County admits that it is a governmental body, the remaining allegations of paragraph 2 are denied. Specifically, Harrison County denies it sets or implements the policies and procedures at the Harrison County Adult Detention Center.
3. Admitted.
4. Admitted.
5. Admitted.
6. Denied.
7. Denied.
8. Admitted.

**FACTS**

9. Defendant having no independent knowledge or information upon

which to base its answer concerning the allegations of paragraphs 9-46, and would therefore deny the same and demand strict proof thereof.

47. Defendant denies each and every allegation in paragraph 47, including sub-paragraphs 1-14.

48. Denied.

49. Denied.

50. Denied.

51. Defendant denies each and every allegation in paragraph 51, including sub-paragraphs a-d.

52. Denied.

53. Denied.

#### **STATEMENT OF CLAIM**

##### **CLAIM #1**

##### **BREACH OF DUTY TO PROTECT**

54. Defendant incorporates by reference each and every response to paragraphs 1-53 above.

55. Defendant denies each and every allegation in paragraph 55, including sub-paragraphs a-e.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

##### **CLAIM #2**

##### **INADEQUATE OPPORTUNITY TO PRACTICE RELIGION**

60. \_\_Defendant incorporates by reference each and every response to paragraphs 1-59 above.

61. Defendant denies each and every allegation in paragraph 61, including sub-paragraphs a-e.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

66. Defendant denies each and every allegation in paragraph 66, including sub-paragraphs 1-3.

67. Denied.

68. Denied.

### **CLAIM #3**

#### **INADEQUATE LAW LIBRARY FAILURE TO PROVIDE ACCESS TO COURT**

69. \_\_Defendant incorporates by reference each and every response to paragraphs 1-68 above.

70. Denied.

71. Denied.

72. Denied.

73. Denied.

74. Denied.

75. Defendant denies each and every allegation in paragraph 75, including sub-paragraphs 1-14.

76. Denied

77. Defendant denies each and every allegation in paragraph 77,

including sub-paragraphs a-j.

78. Denied.

79. Denied.

**RELIEF SOUGHT**

80. Denied.

81. Denied.

82. Denied.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Defendant would show that any such acts as alleged by Plaintiff, such acts specifically being denied, were the results of actions or inactions of persons other than this Defendant over whom this Defendant had no control or right of control.

WHEREFORE, Defendant files its separate Answer to the Amended Complaint presented against it and upon final hearing moves the Court to dismiss it with prejudice with costs assessed against the Plaintiff.

RESPECTFULLY SUBMITTED this the 23rd day of July 2007.

HARRISON COUNTY, BY AND THROUGH ITS  
DULY ELECTED BOARD OF SUPERVISORS

MEADOWS RILEY LAW FIRM

BY: /s/ *Karen J. Young*  
KAREN J. YOUNG

Karen J. Young, Esq.  
MS Bar 6654  
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**CERTIFICATE OF SERVICE**

I, Karen J. Young, of Meadows Riley Law Firm, do hereby certify that a true and correct copy of the foregoing Answer and Defenses of the Harrison County Board of Supervisors was mailed, postage prepaid, United States mail, to Johnny O'Bryant, c/o Harrison County Adult Detention Center, 10451 Larkin Smith Drive, B-B, Gulfport, MS 39503.

SO CERTIFIED this the 23<sup>rd</sup> day of July 2007.

BY: /s/ *Karen J. Young*  
KAREN J. YOUNG

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